

110TH CONGRESS
2D SESSION

H. R. 7188

To amend the Truth in Lending Act to establish certain advertising and disclosure requirements with respect to tax refund anticipation loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2008

Mrs. MCCARTHY of New York introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to establish certain advertising and disclosure requirements with respect to tax refund anticipation loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Refund Anticipa-
5 tion Loan Consumer Protection Act”.

6 **SEC. 2. ADVERTISING AND DISCLOSURE REQUIREMENTS.**

7 (a) IN GENERAL.—Section 128 of the Truth in Lend-
8 ing Act (U.S.C. 1638) is amended by adding at the end
9 the following new subsection:

1 “(e) ADVERTISING AND DISCLOSURE REQUIRE-
2 MENTS FOR TAX REFUND ANTICIPATION LOANS.—

3 “(1) DEFINITIONS.—

4 “(A) INCOME TAX REFUND ANTICIPATION
5 LOAN.—The term ‘income tax refund anticipa-
6 tion loan’ means any short-term extension of
7 credit, whether in cash, through a stored value
8 card, in the form of a down payment or deposit
9 in connection with a transaction to which the
10 consumer is a party, or otherwise, to a con-
11 sumer in exchange for—

12 “(i) the sale or assignment of the con-
13 sumer’s anticipated income tax refund or
14 rebate to the creditor or the income tax re-
15 fund anticipation loan originator; or

16 “(ii) an arrangement authorized by
17 the consumer pursuant to which such an-
18 ticipated income tax refund or rebate se-
19 cures, directly or indirectly, the repayment
20 of such extension of credit or will be cred-
21 ited against any balance owed by the con-
22 sumer on such extension of credit.

23 “(B) INCOME TAX REFUND ANTICIPATION
24 LOAN ORIGINATOR.—The term ‘income tax re-
25 fund anticipation loan originator’—

1 “(i) means any person, including any
2 income tax return preparer, electronic tax
3 return filer, or check cashing service, who
4 engages in income tax refund anticipation
5 loan origination;

6 “(ii) includes any person who rep-
7 resents to the public, through advertising
8 or other means of communicating or pro-
9 viding information (including the use of
10 business cards, stationery, brochures,
11 signs, rate lists, or other promotional
12 items), that such person can or will provide
13 or perform any of the activities described
14 in any clause of subparagraph (C); and

15 “(iii) does not include who performs
16 purely administrative or clerical tasks on
17 behalf of a person who is described in any
18 clause (i) or (ii).

19 “(C) INCOME TAX REFUND ANTICIPATION
20 LOAN ORIGINATION.—The term ‘income tax re-
21 fund anticipation loan origination’ means—

22 “(i) accepting an income tax refund
23 anticipation loan application for direct or
24 indirect compensation or gain, or in the ex-

1 pectation of direct or indirect compensa-
2 tion or gain;

3 “(ii) assisting a consumer in obtaining
4 or applying to obtain an income tax refund
5 anticipation loan (whether or not such as-
6 sistance is described as a loan to the con-
7 sumer) for direct or indirect compensation
8 or gain, or in the expectation of direct or
9 indirect compensation or gain; or

10 “(iii) offering or negotiating terms of
11 an income tax refund anticipation loan, for
12 direct or indirect compensation or gain, or
13 in the expectation of direct or indirect
14 compensation or gain.

15 “(D) INCOME TAX RETURN PREPARER.—

16 The term ‘income tax return preparer’—

17 “(i) has the same meaning as in sec-
18 tion 7701(a)(36) of the Internal Revenue
19 Code of 1986; and

20 “(ii) includes any person who prepares
21 for compensation, or who employs 1 or
22 more persons to prepare for compensation,
23 any return of tax imposed under State law.

24 “(E) COMPENSATION.—For purposes of
25 this title, the term ‘compensation’ when used in

1 connection with the preparation by any person
2 of any return of tax for a consumer, includes
3 any compensation or gain directly or indirectly
4 received by such person for acting as an income
5 tax refund anticipation loan originator for such
6 consumer with regard to such return.

7 “(2) ADVERTISING REQUIREMENTS.—

8 “(A) PROHIBITION ON CONFUSING RE-
9 FUND WITH LOAN.—An advertisement for an
10 income tax refund anticipation loan may not—

11 “(i) describe an income tax refund an-
12 ticipation loan as a tax refund or rebate;
13 or

14 “(ii) advertise or solicit tax prepara-
15 tion services as including the possibility of
16 obtaining an immediate or rapid income
17 tax refund or rebate if the immediate or
18 rapid income tax refund or rebate involves
19 an income tax refund anticipation loan
20 origination.

21 “(B) INFORMATION REQUIRED TO BE PRO-
22 VIDED IN ADS FOR INCOME TAX REFUND AN-
23 TICIPATION LOANS.—Any advertisement for an
24 income tax refund anticipation loan shall in-

clude the following information with respect to such loan:

“(i) Any fees imposed by the originator in connection with the origination of such loan.

“(ii) The annual percentage rate applicable with respect to such loan and any fees imposed by the creditor in connection with such loan.

“(iii) The name of the creditor, if other than the originator, with respect to such loan.

“(3) CONTRACT AND DISCLOSURE REQUIREMENTS.—

“(A) CONTRACT REQUIREMENTS.—No income tax refund anticipation loan origination services may be provided by any income tax refund anticipation loan originator for any consumer unless a written and dated contract (for such services) which meets the requirements of subparagraph (B) has been signed by the consumer.

“(B) DISCLOSURE REQUIREMENTS.—No contract referred to in subparagraph (A) meets the requirements of this paragraph unless the

1 following information relating to the income tax
2 refund anticipation loan is included in such con-
3 tract (in writing) and is verbally communicated
4 to the consumer (regardless of whether any of
5 such information is also required under this
6 chapter to be provided by the creditor to the
7 consumer):

8 “(i) The purpose and the amount of
9 all fees associated with the loan that will
10 be imposed by the originator, the creditor,
11 and any other person involved in the trans-
12 action.

13 “(ii) The estimated amount of the
14 Federal or State tax refund.

15 “(iii) The fact that the consumer will
16 be responsible for the repayment of the en-
17 tire loan amount and all related costs and
18 fees regardless of whether—

19 “(I) the individual receives a re-
20 fund;

21 “(II) the amount of the actual
22 refund is greater than or less than the
23 amount of the estimate of the refund;
24 or

1 “(III) any mistake or miscalcula-
2 tion was made by the income tax re-
3 turn preparer in the preparation of
4 the tax return or in determining the
5 amount of the refund.

6 “(iv) The date by which, on average,
7 a refund could be expected to be received
8 using a refund direct deposit program if
9 the consumer filed the return electroni-
10 cally.

11 “(v) Information on obtaining low- or
12 no-cost income tax preparation, electronic
13 filing and direct deposit of refund services
14 from Volunteer Income Tax Assistance
15 Program (VITA) for low- to moderate-in-
16 come individuals and military personnel
17 and their families or Tax Counseling for
18 the Elderly (TCE), which will allow the
19 consumer to receive a refund in usually no
20 more than 10 days.

21 “(vi) A website and a toll-free tele-
22 phone number for locating the nearest Vol-
23 unteer Income Tax Assistance Program or
24 Tax Counseling for the Elderly office.

1 “(4) ENFORCEMENT.—Section 130 shall be ap-
2 plied for purposes of this paragraph substituting ‘in-
3 come tax refund anticipation loan originator’ for
4 ‘creditor’ each place such term appears in such sec-
5 tion.”.

6 (b) PROMPT MODEL DISCLOSURE FORM PUBLICA-
7 TION.—The Board of Governors of the Federal Reserve
8 System shall publish model disclosure forms for implemen-
9 tation of the amendment made by subsection (a) with re-
10 gard to income tax refund anticipation loans, in accord-
11 ance with section 105 of the Truth in Lending Act, before
12 the end of the 6-month period beginning on the date of
13 the enactment of this Act.

14 (c) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply after the end of the 60-day pe-
16 riod beginning on the date of the enactment of this Act.

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